

COMMON CARRIER NOTICES TO BE FILED BY THE
SECRETARY OF DEFENSE

JULY 28 (legislative day, JULY 27), 1965.—Ordered to be printed

Mr. PASTORE, from the Committee on Commerce, submitted the following

REPORT

[To accompany S. 1554]

The Committee on Commerce, to which was referred the bill (S. 1554) to amend subsection (b) of section 214 and subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, in order to substitute the Secretary of Defense (rather than the Secretaries of the Army and the Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

GENERAL STATEMENT

This bill was introduced by Senator Warren G. Magnuson, chairman of the committee, at the request of the Federal Communications Commission. A hearing thereon was held on June 23, 1965, at which the Federal Communications Commission Chairman, E. William Henry, testified in support of the proposal. No witness appeared in opposition to the bill.

Under the Communications Act, as amended, when a communications common carrier wants to extend its lines or to discontinue or curtail existing service, it must apply to the FCC for permission to do so. Subsection (b) of section 214 of that act provides that among those entitled to receive official notice of the filing of such an application are the Secretary of the Army and the Secretary of the Navy. A similar provision for official notice is contained in subsection (c)(1) of section 222 in cases of consolidations and mergers.

The FCC has, in practice, sent copies of such applications to the Secretaries of the Army, Navy, and Air Force, as well as the Secretary of Defense. Commission Chairman Henry testified that in the vast

majority of cases the Department of Defense is the agency that makes the required reply.

S. 1554, by requiring notice only to the Secretary of Defense in such cases, should provide adequate notice to the military and, at the same time, eliminate unnecessary administrative work.

AGENCY COMMENTS

The following communications were received from the interested Government agencies: a letter from the Chairman of the Federal Communications Commission requesting this legislation dated March 5, 1965, together with the Commission's explanatory statement; a letter from the Department of Defense dated March 22, 1965; a letter from the Comptroller General of the United States dated March 30, 1965; and a letter from the Department of Justice dated April 5, 1965. They are set forth below.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., March 5, 1965.

The VICE PRESIDENT,
U.S. Senate, Washington, D.C.

DEAR MR. VICE PRESIDENT: The Commission has adopted as a part of its legislative program for the 89th Congress a proposal to amend sections 214 and 222 of the Communications Act of 1934, in order to substitute the Secretary of Defense (rather than the Secretaries of the Army and Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service.

The Commission's draft bill to accomplish the foregoing objective was submitted to the Bureau of the Budget for its consideration. We have now been advised by that Bureau that from the standpoint of the administration's program there would be no objection to the presentation of the draft bill to the Congress for its consideration. Accordingly, there are enclosed six copies of our draft bill and explanatory statement on this subject.

The consideration by the Senate of the proposed amendment to the Communications Act of 1934 would be greatly appreciated. The Commission would be most happy to furnish any additional information that may be desired by the Senate or by the committee to which this proposal is referred.

Yours sincerely,

E. WILLIAM HENRY,
Chairman.

EXPLANATION OF THE PROPOSED AMENDMENT TO SECTION 214 AND SECTION 222 OF THE COMMUNICATIONS ACT OF 1933, AS AMENDED, IN ORDER TO SUBSTITUTE THE SECRETARY OF DEFENSE (RATHER THAN THE SECRETARIES OF THE ARMY AND NAVY) AS THE PERSON ENTITLED TO RECEIVE OFFICIAL NOTICE OF THE FILING OF CERTAIN APPLICATIONS IN THE COMMON CARRIER SERVICE

By the Commission:

This legislative proposal would amend sections 214(b) and 222(c)(1) of the Communications Act of 1934, as amended, to substitute the Secretary of Defense (rather than the Secretaries of the Army and Navy) as the person entitled to receive official notice of the filing of certain applications.

Presently, when a common carrier wishes to extend its lines or to discontinue or curtail existing common carrier services, it must file an application for permission to do so. Section 214(b) of the Communications Act provides that among those entitled to receive official notice of the filing of such an application are the Secretary of the Army and the Secretary of the Navy. A similar provision for official service is contained in section 222(c)(1), in cases of consolidations and mergers.

With a view to eliminating unnecessary paperwork, the Commission proposes that sections 214(b) and 222(c)(1) of the Communications Act of 1934, as amended, be amended to provide for official notice to the Secretary of Defense and to delete "Secretary of the Army" and "Secretary of the Navy" where those titles appear in such sections. Experience has proved that while copies of applications have been sent to the Departments of the Army, Navy, and Air Force, as well as the Secretary of Defense, the Department of Defense is the agency that makes the required reply in the vast majority of cases.

Limiting official notice to the Department of Defense in such cases should provide adequate notice to the military and, at the same time, eliminate unnecessary administrative work.

Adopted: October 28, 1964.

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., March 22, 1965.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense with respect to S. 1554, 89th Congress, a bill to amend subsection (b) of section 214 and subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, in order to substitute the Secretary of Defense (rather than the Secretaries of the Army and the Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service.

The purpose of the bill is stated in its title.

The Department of Defense has no objection to the enactment of the bill.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

L. NIEDERLEHNER,
Acting General Counsel.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., March 30, 1965.

B-113531.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate.*

DEAR MR. CHAIRMAN: Your letter of March 18, 1965, transmitted copies of S. 1554 and S. 1555 and requested our comments thereon.

S. 1554 proposes to amend sections 214(b) and 222(c)(1) of the Communications Act of 1934, as amended, in order to substitute the Secretary of Defense for the Secretaries of the Army and the Navy as the person to be officially notified of the filing of certain applications in the common carrier service.

Other than the explanation made a part of the record at the time S. 1554 was introduced, we have no special information as to the desirability of amending the Communications Act of 1934 as proposed therein. Hence, and since the bill, if enacted, would not affect the functions and responsibilities of our office, we have no comments with respect to its merits or recommendations regarding its enactment.

The remaining bill, S. 1555, is the subject of a separate communication.

Sincerely yours,

JOSEPH CAMPBELL.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., April 5, 1965.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 1554, a bill to amend subsection (b) of section 214 and subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, in order to substitute the Secretary of Defense (rather than the Secretaries of the Army and the Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service.

This bill has been examined, but since its subject matter does not directly affect the activities of the Department of Justice we would prefer not to offer any comment concerning it.

Sincerely,

RAMSEY CLARK,
Deputy Attorney General.

POSSIBLE ADDITION TO S. 1554

After the committee announced hearings on S. 1554, it received a suggestion from a communications attorney that the bill be amended to provide by statute for general public notice in such cases in addition to the notice now required to be given to specified persons. The FCC was asked for its views on this suggestion. The Commission on May 6, 1965, advised the committee by letter that prospectively it would give public notice of applications filed by common carriers under sections 214, 221, and 222 of the act, except as to certain minor applications. The committee does not, therefore, see any need to add a requirement of this nature in the Communications Act.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934, AS AMENDED

EXTENSION OF LINES

SEC. 214. (a) * * *.

(b) Upon receipt of an application for any such certificate, the Commission shall cause notice thereof to be given to, and shall cause a copy of such application to be filed with, [the Secretary of the Army, the Secretary of the Navy,] *the Secretary of Defense* and the Governor of each State in which such line is proposed to be constructed, extended, acquired, or operated, or in which such discontinuance, reduction, or impairment of service is proposed, with the right to those notified to be heard; and the Commission may require such published notice as it shall determine.

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CONSOLIDATIONS AND MERGERS OF TELEGRAPH CARRIERS

SEC. 222. (a) * * *.

(b) * * *.

(c)(1) Whenever any consolidation or merger is proposed under subsection (b) of this section, the telegraph carrier or telegraph carriers seeking authority therefor shall submit an application to the Commission, and thereupon the Commission shall order a public hearing to be held with respect to such application and shall give reasonable notice thereof, in writing, and an opportunity to be heard, to the Governor of each of the States in which any of the physical property involved in such proposed consolidation or merger is situated, to the Secretary of State, *the Secretary of Defense*, [the Secretary of the Army,] the Attorney General of the United States, [the Secretary of the Navy,] representatives of employees where represented by bargaining representatives known to the Commission, and to such other persons as the Commission may deem advisable. If, after such public hearing, the Commission finds that the proposed consolidation

or merger, or an amended proposal for consolidation or merger, (1) is authorized by subsection (a) of this section, (2) conforms to all other applicable provisions of this section, (3) is in the public interest, the Commission shall enter an order approving and authorizing such consolidation or merger, and thereupon any law or laws making consolidations and mergers unlawful shall not apply to the proposed consolidation or merger. In finding whether any proposed consolidation or merger is in the public interest, the Commission shall give due consideration, among other things, to the financial soundness of the carrier resulting from such consolidation or merger.





